

111TH CONGRESS  
2D SESSION

# H. R. 6547

To amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 17, 2010

Mr. GEORGE MILLER of California (for himself and Mrs. McCARTHY of New York) introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited at the “Protecting Students  
5 from Sexual and Violent Predators Act”.

6 **SEC. 2. BACKGROUND CHECKS.**

7 Subpart 2 of part E of title IX of the Elementary  
8 and Secondary Education Act of 1965 (20 U.S.C. 7901  
9 et seq.) is amended by adding at the end the following:

1 **“SEC. 9537. BACKGROUND CHECKS.**

2 “(a) BACKGROUND CHECKS.—Each State that re-  
3 ceives funds under this Act shall have in effect policies  
4 and procedures that—

5 “(1) require that criminal background checks  
6 be conducted for school employees that include—

7 “(A) a search of the State criminal reg-  
8 istry or repository in the State in which the  
9 school employee resides and each State in which  
10 such school employee previously resided;

11 “(B) a search of State-based child abuse  
12 and neglect registries and databases in the  
13 State in which the school employee resides and  
14 each State in which such school employee pre-  
15 viously resided;

16 “(C) a search of the National Crime Infor-  
17 mation Center of the Department of Justice;

18 “(D) a Federal Bureau of Investigation  
19 fingerprint check using the Integrated Auto-  
20 mated Fingerprint Identification System; and

21 “(E) a search of the National Sex Of-  
22 fender Registry established under section 19 of  
23 the Adam Walsh Child Protection and Safety  
24 Act of 2006 (42 U.S.C. 16919);

1           “(2) prohibit the employment of school employ-  
2           ees for a position as a school employee if such indi-  
3           vidual—

4                   “(A) refuses to consent to the criminal  
5           background check described in paragraph (1);

6                   “(B) makes a false statement in connec-  
7           tion with such criminal background check;

8                   “(C) has been convicted of a felony con-  
9           sisting of—

10                   “(i) homicide;

11                   “(ii) child abuse or neglect;

12                   “(iii) a crime against children, includ-  
13           ing child pornography;

14                   “(iv) spousal abuse;

15                   “(v) a crime involving rape or sexual  
16           assault;

17                   “(vi) kidnapping;

18                   “(vii) arson; or

19                   “(viii) physical assault, battery, or a  
20           drug-related offense, committed within the  
21           past 5 years; or

22                   “(D) has been convicted of any other crime  
23           that is a violent or sexual crime against a  
24           minor;

1           “(3) require that a local educational agency or  
2           State educational agency that receives information  
3           from a criminal background check conducted under  
4           this section that an individual who has applied for  
5           employment with such agency as a school employee  
6           is a sexual predator report to local law enforcement  
7           that such individual has so applied;

8           “(4) require that the criminal background  
9           checks described in paragraph (1) be periodically re-  
10          peated; and

11          “(5) provide for a timely process by which a  
12          school employee may appeal the results of a criminal  
13          background check conducted under this section to  
14          challenge the accuracy or completeness of the infor-  
15          mation produced by such background check and seek  
16          appropriate relief for any final employment decision  
17          based on materially inaccurate or incomplete infor-  
18          mation produced by such background check, but  
19          that does not permit the school employee to be em-  
20          ployed as a school employee during such process.

21          “(b) DEFINITIONS.—In this section:

22                 “(1) SCHOOL EMPLOYEE.—The term ‘school  
23                 employee’ means—

24                         “(A) an employee of, or a person seeking  
25                         employment with, a local educational agency or

1 State educational agency, and who has a job  
 2 duty that results in exposure to students; or

3 “(B) an employee of, or a person seeking  
 4 employment with, a for-profit or nonprofit enti-  
 5 ty, or local public agency, that has a contract  
 6 or agreement to provide services with a school,  
 7 local educational agency, or State educational  
 8 agency, and whose job duty—

9 “(i) is to provide such services; and

10 “(ii) results in exposure to students.

11 “(2) SEXUAL PREDATOR.—The term ‘sexual  
 12 predator’ means a person 18 years of age or older  
 13 who has been convicted of, or pled guilty to, a sexual  
 14 offense against a minor.”.

15 **SEC. 3. CONFORMING AMENDMENT.**

16 Section 2 of the Elementary and Secondary Edu-  
 17 cation Act of 1965 is amended by adding after the item  
 18 relating to section 9536 the following:

“Sec. 9537. Background checks.”.

